STATE OF ARIZONA FILED

STATE OF ARIZONA

DEPARTMENT OF INSURANCE

MAR 2 2001

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In the Matter of:

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No. 01A-<u>054</u> - INS

ELIZABETH ANN BERBER and R.E.F.S. OF ARIZONA, INC.

Respondents.

CONSENT ORDER

The State of Arizona Department of Insurance ("Department"), has received evidence that R.E.F.S. of Arizona, Inc. and Elizabeth Ann Berber ("Respondents") violated provisions of Title 20, Arizona Revised Statutes. Respondents wish to resolve this matter without the commencement of formal proceedings. Respondents neither admit nor deny the following Findings of Fact are true and consent to entry of the following Conclusions of Law and Order.

FINDINGS OF FACT

- 1. R.E.F.S. of Arizona, Inc. (REFS) is an Arizona corporation and is, and was at all material times licensed as a resident agency to transact insurance as a property and casualty broker, Arizona license number 669525, which license expires May 31, 2002.
- 2. Elizabeth Ann Berber ("Berber") is, and was at all material times licensed to transact insurance as a resident property and casualty broker, Arizona license number 797564, which license expires January 31, 2002. Berber is the current President and a Director of REFS.
 - Berber is the only Arizona licensed representative of REFS.
- 4. Berber reported a home address in Arizona on her original application for an Arizona resident insurance broker license and on her 1992, 1994, 1996, 1998 and 2000 renewal applications. In fact, Berber is not and was not at any material time an Arizona resident.

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5. Berber, as President of REFS, stated on the 1996, 1998 and 2000 REFS applications for renewal of its Arizona resident agency broker license that the business of REFS was transacted only in Arizona at the agency's business address of record. In fact, the business of REFS was conducted out of the California business offices of R.E.F.S., Inc. The Arizona business address of record was the personal residence of Berber's niece, who also served as the statutory agent for REFS. The address was used to receive mail for REFS.

CONCLUSIONS OF LAW

- 1. The Director has jurisdiction over this matter.
- 2. Respondent's conduct constitutes the existence of any cause for which original issuance or any renewal of the license could have been refused, within the meaning of A.R.S. §20-316(A)(1).
- 3. Respondent's conduct constitutes misrepresentation in obtaining or attempting to obtain any insurance license, within the meaning of A.R.S. § 20 -316(A)(3).
- 4. Grounds exist for the Director to suspend, revoke, or refuse to renew Respondents' insurance licenses, impose a civil penalty and/or order restitution pursuant to A.R.S. §§20-316(A) and 20-316(C).

ORDER

IT IS HEREBY ORDERED THAT Respondents' licenses are revoked effective immediately upon entry of this Order.

DATED AND EFFECTIVE this

___day of *March*, 2001.

CHARLES R. COHEN
Director of Insurance

CONSENT TO ORDER

- Respondents have reviewed the foregoing Findings of Fact, Conclusions of Law and 1. Order.
- Respondents admit the jurisdiction of the Director of Insurance, State of Arizona. 2. Respondents neither admit nor deny the foregoing Findings of Fact and consent to the entry of the foregoing Conclusions of Law and Order.
- Respondents are aware of their right to notice and a hearing at which they may be 3. represented by counsel, present evidence and examine witnesses. Respondents irrevocably waive their right to such notice and hearing and to any court appeals relating to this Consent Order.
- Respondents state that no promise of any kind or nature whatsoever, except as expressly 4. contained in this Consent Order, was made to them to induce them to enter into this Consent Order and that they have entered into this Consent Order voluntarily.
- Respondents acknowledge that the acceptance of this Consent Order by the Director is 5. solely to settle this matter against them and does not preclude any other agency, officer, or subdivision of this state from instituting civil or criminal proceedings as may be appropriate now or in the future.

2-/5-01 Date 2-/5-01

Elizabeth Ann Berber

License Number 797564

R.E.F.S. of Arizona, Inc. License Number 669525

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2	COPIES of the foregoing mailed/delivered this <u>2nd</u> day of <u>March</u> , 2001, to:				
3					
4	Mr. Earl E. Berg Law Office of Earl E. Berg, PLLC 300 W. Osborn Road, Suite 300				
5	Phoenix, Arizona 85013 Attorney for Respondents				
6	Sara M. Begley, Deputy Director				
7	Gerrie L. Marks, Executive Assistant for Regulatory Affairs Mary Butterfield, Assistant Director				
8	Catherine M. O'Neil, Consumer Legal Affairs Officer Maureen J. Catalioto, Supervisor				
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